

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850  
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**Case No. S-2743**

**PETITION OF HENDERSON CORNER AND 355, LLC  
BY ARIS MARDIROSSIAN**

OPINION OF THE BOARD  
(Opinion Adopted May 20, 2009)  
(Effective Date of Opinion May 29, 2009)

Case No. S-2743 is an application for a special exception, pursuant to Section 59-G-2.06 of the Zoning Ordinance, to permit an Automobile Filling Station. The Hearing Examiner for Montgomery County held a hearing on the application on February 27, 2009, closed the record in the case on March 13, 2009, and on April 13, 2009 issued a Report and Recommendation for approval of the special exception.

The subject property is contains 1.27 acres, identified in Liber 11784 at Folio 667 located at the intersection of Henderson Corner Drive and Ridge Road, Derwood, Maryland, 20855, in the C-3 Zone.

Decision of the Board:                      Special Exception **Granted** Subject  
To the Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on May 20, 2009. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board.
2. Development of the property must be limited to: A self-service automobile filling station, containing six multi-product dispensers (with 12 pumping stations) located on three pump islands;

- a. A 3,188 gross square foot building, including a 1,674 square foot convenience food, beverage and customer patron area;
  - b. Two (2) underground storage tanks; and
  - c. A maximum canopy clearance height of 14'-6," and a total canopy height of 18'-6".
3. No more than seven (7) employees may be on site at any one time. Petitioner shall make a log or employee time and attendance sheets available for inspection upon request of the Department of Permitting Services.
4. Petitioner must submit of a revised Final Forest Conservation Plan to the Planning Board, showing the proposed development's layout.
5. Hours of operation of the automobile filling station and the convenience store are 24 hours/day, seven days a week.
6. The Petitioner must comply with stormwater and sediment control regulations of the Montgomery County Department of Permitting Services (DPS).
7. Fuel storage tank and fuel pump installation and use must comply with the control guidelines and air quality permitting requirements of the Maryland Department of the Environment (MDE).
8. Fuel storage tanks must meet required technical standards and must comply with all county, state and federal permitting requirements.
9. Permits must be obtained for the proposed signs, and copies thereof must be filed with the Board of Appeals prior to posting the signs.
10. Since the proposed use will require an amended preliminary plan of subdivision, in accordance with Zoning Ordinance §59-G-1.21(a)(9), approval of this special exception is conditioned upon approval of the amended preliminary plan of subdivision by the Planning Board. If changes to the site plan or other plans filed in this case are required at subdivision, Petitioner must file a copy of the revised site and related plans with the Board of Appeals.
11. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Walter S. Booth, Stanley B. Boyd, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 29<sup>th</sup> day of May, 2009.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.